DR. JAMES D. CARPENTER
DR. MICHAEL JENKINS
10001 S. Eastern Suite 309
Henderson, NV 89052
(702) 633-5888
Plaintiffs in Proper Person

FILED
ENTERED
CLERK U.S. DISTRICT COURT
DISTRICT OF NEVADA
BY DEPUTY

DISTRICT COURT

STATE OF NEVADA

* * *

DR. JAMES D. CARPENTER, and DR. MICHAEL JENKINS,

Plaintiff,

vs.

DR. RUDY R. MANTHEI, as a Member of the Board of Osteopathic Medicine; NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE; DANIEL K. CURTIS, D.O. as a Member of the Board of Osteopathic Medicine; GARY MONO, D.O., as a Member of the Board of Osteopathic Medicine; PAUL H. MOZEN, D.O., as a member of the Board of Osteopathic Medicine; LISA MILLER-ROCHE, ESQ., as a Member of the Board of Osteopathic Medicine; MATTHEW J. McMAHON, D.O., as a Member of the Board of Osteopathic Medicine; BONNIE PARNELL, as a Member of the Board of Osteopathic Medicine; TREY DELAP, as Executive Director of the Board of Osteopathic Medicine; BRIAN SANDOVAL, Nevada Attorney General; DOES I-XX, inclusive and ROE CORPORATIONS I-XX, inclusive,

Defendants.

CV-S-04-1415-RCJ-PAL

JURY TRIAL DEMANDED

JURY DEMAND

COMPLAINT

COMES NOW, Plaintiff, in Proper Person, and for cause of action, alleges as follows:

GENERAL ALLEGATIONS

1. Plaintiff DR. JAMES D. CARPENTER (hereinafter, "CARPENTER") is now, and has at all times relevant hereto, been a resident of the State of Nevada; County of Clark.

2. Plaintiff DR. MICHAEL JENKINS (hereinafter "JENKINS") is now, and has at all times relevant hereto, been a resident of the State of Nevada; County of Clark.

3. Upon information and belief, Defendant DR. RUDY MANTHEI (hereinafter

"MANTHEI") is now, and has at all times relevant hereto, been a resident of the State of Nevada, County of Clark.

4. Upon information and believe, THE BOARD OF OSTEOPATHIC MEDICINE (hereinafter "the Board") is a governmental entity under the control of the State of Nevada.

5. The true name or capacities, whether individual, corporate, associate, or otherwise of Defendant(s), Does I through XX are unknown to Plaintiff who therefore sues said Defendant(s) by such fictitious names. Plaintiff is informed and believes and thereon alleges that each of the Defendant(s) designated herein as a DOE is negligently responsible in some manner for the event and happenings herein referred to, and negligently caused injuries and damages proximately referred to, and negligently caused injuries and damages proximately thereby to Plaintiff as herein alleged; and Plaintiff will ask leave of the Court to amend this Complaint to show their true names and capacities when same have been ascertained.

6. At all times mentioned herein, the Defendant(s) were the agents and employees of all other Defendants, and each of them, and alleged to be acting within the scope of their agency and authority.

7. That Defendant Manthei is disabled and collecting disability, and is therefore not qualified to sit on the Board, under NRS 633.191.

8. In spite of being disability and unable to practice medicine under NRS 633.191, said Defendant is fraudulently billing patients under other physician licenses at the UMC free clinic, Las Vegas, Nevada. See Exhibit "1" and Exhibit "2".

9. That Defendant Manthei not only sits on the Board, but it the President of the Board, and by his actions, there is a deprivation of rights under the color of law, a violations of Title 18, U.S.C. Section 242, where said Defendant uses his influence to interfere with and prohibit the entry of ophthalmic doctors and cosmetic surgeons in the State of Nevada, County of Clark.

10. The decisions relating to admitting or retaining licensees is not made in public, but behind closed doors, and as such, the licensing has been arbitrary and capricious in nature

11. That such actions deprive Plaintiff herein, other similarly situated Plaintiffs, the

ability to obtain and maintain suitable employment, without just cause.

12. That due to the actions of Defendants, and each of them, Plaintiffs request relief according to proof.

FIRST CAUSE OF ACTION
(Deprivation Under Color of Law)

13. Plaintiffs reallege and incorporate by reference all of the previous allegations of this Complaint at this point as if set forth fully herein.

14. Defendants, and each of them, purporting to act in their official duties, have willfully deprived or caused to denied those rights or privileges secured or protected by the United States Constitution, including right to due process.

15. Defendant, willfully and maliciously violated laws governing Board action including, but not limited to NAC 633.270. Due to the acts of Defendants, and each of them, Plaintiffs have been damaged in a sum to be proven at the time of trial in this matter.

SECOND CAUSE OF ACTION
(Discrimination)

16. Plaintiff realleges and incorporates by reference all of the previous allegations of this Complaint at this point as if set forth fully herein.

17. Defendants, and each of them, has engaged in a pattern of discrimination, to restrict and restrain the appropriate licensing of doctors to practice in the State of Nevada, in direct competition to a relative of a member of the Nevada Board of Osteopathic Medicine.

18. That due to Defendants action, and each of them, Plaintiff has been damaged, and is entitled to relief to be determined at the time of trial.

THIRD CAUSE OF ACTION
(Conspiracy)

19. Plaintiffs reallege and incorporate by reference all of the previous allegations of this Complaint at this point as if set forth fully herein.

20. That Defendants, and each of them, have conspired to limit and restrict the amount of licensees in the State of Nevada in direct competition to a relative of a member of the Nevada Board of Osteopathic Medicine.

21. That due to Defendants actions, and each of them, Plaintiff has been denied, or is in fear of being denied, licensing in the State of Nevada.

FOURTH CAUSE OF ACTION
(Abuse of Process)

22. Plaintiffs reallege and incorporate by reference all of the previous allegations of this Complaint at this point as if set forth fully herein.

23. That the actions of Defendants, and each of them, amount to an abuse of process and abuse of the power vested in them by the State of Nevada, and the people of Nevada.

24. That due to Defendants actions, and each of them, Plaintiffs has been damaged, some to the point of loss of livelihood, and should be justly compensated in a sum determined at the time of trial.

FIFTH CAUSE OF ACTION
(Fraud)

25. Plaintiffs reallege and incorporate by reference all of the previous allegations of this Complaint at this point as if set forth fully herein.

26. That the actions of Defendant Manthei, by practicing medicine while disabled and collecting disability, treating patients, and sitting on the Board, all constitute fraud.

27. That due to Defendant actions, Plaintiffs has been damaged, some to the point of loss of livelihood, and should be justly compensated in a sum determined at the time of trial.

SIXTH CAUSE OF ACTION
(Punitive Damages)

28. Plaintiffs reallege and incorporate by reference all of the previous allegations of this Complaint at this point as if set forth fully herein.

29. That Defendants are aware of such violations, yet, based upon their superior possession, willfully and maliciously continue to deny due process. Due to their actions, and to send a message to prevent this type of willful abuse of process from continuing, and to prohibit continuing violations, Defendants should be ordered to pay punitive damages in the sum of One Million Dollars.

SEVENTH CAUSE OF ACTION
(Fees and Costs)

30. Plaintiffs reallege and incorporate by reference all of the previous allegations of this Complaint at this point as if set forth fully herein.

31. That due to Defendants actions, Plaintiff was required to resort to legal action, and Plaintiffs are entitled to attorney fees pursuant to 42 USC subsection 1988 in this matter.

WHEREFORE, Plaintiffs expressly reserve the right to amend their Complaint at the time of the trial of the actions herein to include all items of damages not yet ascertained, demand judgment against Defendants, requesting the following relief:

1. This Court assume jurisdiction and grant Plaintiffs a trial.

2. For violation of Federal and State law.

3. For discrimination under the color of law;

4. For court costs and fees herein, including costs of attorney, when Plaintiffs obtain counsel.

5. For punitive damages, as the court deems fair and equitable.

6. For such other and further relief as to this court deems fair and just.

DATED this 1 day of Oct, 2004.

DR. JAMES CARPENTER

DR. MICHAEL JENKINS

VERIFICATION

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

That I, Dr. James Carpenter, being first duly sworn, depose and say:

That I am the Plaintiff in the above-entitled action; that I have read the foregoing COMPLAINT, and know the contents thereof; that the same is true of my own knowledge and belief, and as to those matters, I believe them to be true.

DR. JAMES CARPENTER

SUBSCRIBED AND SWORN TO BEFORE ME THIS 1 DAY OF Oct, 2004.

NOTARY PUBLIC

EMILY R. STEVENS
Notary Public, State of Nevada
Appointment No. 00-62114-1
My Appt. Expires Jan 13, 2008

ACKNOWLEDGMENT

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

On this 1 day of Oct, 2004, before me the undersigned Notary Public in and for said County and State, appeared Dr. James Carpenter known to me to be the person described in and who executed the foregoing instrument and who acknowledged to me that he did so freely and voluntarily and for the uses and purposes mentioned therein.

WITNESSETH my hand and official seal.

NOTARY PUBLIC

EMILY R. STEVENS
Notary Public, State of Nevada
Appointment No. 00-62114-1
My Appt. Expires Jan 13, 2008

VERIFICATION

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

That I, Dr. Michael Jenkins, being first duly sworn, depose and say:

That I am the Plaintiff in the above-entitled action; that I have read the foregoing COMPLAINT, and know the contents thereof; that the same is true of my own knowledge and belief, and as to those matters, I believe them to be true.

DR. MICHAEL JENKINS

SUBSCRIBED AND SWORN TO BEFORE ME
THIS 1 DAY OF Oct, 2004.

NOTARY PUBLIC

EMILY R. STEVENS
Notary Public, State of Nevada
Appointment No. 00-62114-1
My Appt. Expires Jan 13, 2008

ACKNOWLEDGMENT

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

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Yvonne Atkinson Gates, Vice Chair
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UMC UNIVERSITY MEDICAL CENTER
1931 70 YEARS 2001

Lied Adult Ambulatory Care Center
1524 Pinto Lane
Las Vegas, NV 89106-4195
(702) 383-3999
FAX: (702) 383-6243
Robert Buckley, M.D.
Medical Director

September 16, 2002

Rudy R. Manthei, D.O.
2598 Windmill Parkway
Henderson, NV 89014

Elka

Dear Doctor Manthei:

It was so nice of you to come and visit me this morning and plan for a new Eye Clinic. I have spoken to Suzanne Dessaints, R.N., MHA, Manager Outpatient Clinics, and the best day/time for optimal availability of rooms and staff for your clinic will be the 1st and 4th Thursdays of each month, from 1:00 p.m. to 4:00 p.m. Due to the upcoming JCAHO survey in October, we will schedule your first clinic for Thursday, November 7, 2002. Attached please find your remaining clinic days for 2002 and 2003.

As I understand it, you will continue your generosity by bringing a slit lamp and someone from your office to assist you. Again, on behalf of not only the staff but also the patients, I want to thank you for adding this most needed clinic.

Sincerely,

Bob

Robert Buckley, M.D.
Medical Director Outpatient Clinics

Thurs - 11/5/02
Start @ 100
When you get there
meet w/- Suzanne Dessaints

RB:ae
Attach.

cc: J. Christensen, M.D., Chief Department of Medicine
M. Bernstein, M.D., Vice Chief Department of Medicine
W. Hale, Chief Executive Officer
T. Rayner, Chief Operating Officer
J. Taylor, Chief Administrative Officer
J. Dylag, Senior Associate Administrator, Ambulatory Clinics
K. Silver, Assistant Administrator, Managed Care & Business Development Planning
D. Pugh, Assistant Administrator, Marketing & Public Relations
S. Dessaints, R.N., MHA, Manager Outpatient Clinics

UMC

Lied Ambulatory Care Center
1524 Pinto Lane
Las Vegas, NV 89106
(702) 383-2631
Fax: (702) 383-2796

Elka - 383-6272
Fax:

September 30, 2002

Rudy R. Manthei, D.O.
2598 Windmill Parkway
Henderson, NV 89014

Dear Dr. Manthei:

It is my pleasure to welcome you to the Outpatient Clinic at the Lied Ambulatory Care Center. We are looking forward to working with you in **2002** and **2003** and hope your experience with the **Eye Clinic** is an enjoyable one.

Your **Eye Clinic** is scheduled for the **1st and 4th Thursday of each month at 1:00 p.m.** I have enclosed a **2002** calendar and have highlighted **November 7th and December 5th**, the dates your clinic is scheduled. The circled dates indicate when we are closed for holidays. In addition, I have enclosed the calendar for the year **2003** with highlighted dates your clinic is scheduled and circled dates when the clinic is closed.

If at any time you need to change your clinic day, date or time, please feel free to call me so I can accommodate you.

Sincerely,

Suzanne Dessaints

SUZANNE DESSAINTS, R.N.,M.H.A.
Director, Lied Center

SD:sh

Enclosure

2